



City of San Antonio, Texas

Ethics Advisory Opinion No. 2021-02

July 12, 2021

Issued By: City Attorney's Office

I. Issue

May a City employee accept an honorarium for participating in a research advisory panel with a national non-profit?

II. Inquiry

A City employee received an invitation to participate in a research advisory panel hosted by a national non-profit. The advisory panel will meet virtually five times during the year. All panelists will receive an honorarium for their volunteer service. The employee sought direction if this was allowed by the Ethics Code.

III. The Ethics Code and Texas Penal Code

A. Gifts

The Ethics Code includes two rules which regulate the acceptance of gifts by City employees. The first restricts gifts given with the intent to influence or reward a City official or employee for official action.

The second rule restricts gifts from specific sources, regardless of the motivation for the gift: A City official or employee shall not solicit, accept, or agree to accept any gift or benefit, from:

- Any individual or entity doing or seeking to do business with the City;
- Any registered lobbyist or public relations firm; or
- Any person or entity seeking action or advocating on zoning or platting matters before a City body, save and except for:
 - Items received that are of nominal value; or
 - Meals or entertainment in an individual expense of fifty dollars (\$50.00) or less at any occurrence, and no more than a cumulative value of five hundred (\$500.00) in a single calendar year from a single source.

There are some exceptions for gifts from these restricted sources, including the admission to events attended in connection with the official or employee's City responsibilities. See Ethics Code, Section 2-45(b) for the complete list of exceptions.

B. Honorariums

Section 36.07 of the Texas Penal Code states:

- (a) A public servant commits an offense if the public servant solicits, accepts, or agrees to accept an honorarium in consideration for services that the public servant would not have been requested to provide but for the public servant's official position or duties.
- (b) This section does not prohibit a public servant from accepting transportation and lodging expenses permitted under Section 305.025(b)(2) of the Government Code (state lobbyists regulations), in connection with a conference or similar event or from accepting meals in connection with such an event.

The Texas Ethics Commission has concluded that this provision prohibits public servants in Texas from accepting "speaker's fees" or similar compensation for participating in an official business-related function. However, the employee may accept payment or reimbursement for reasonable expenses associated with attending this event.

IV. Conclusion

While the City's Ethics Code does provide guidance regarding the acceptance of gifts, deference is given to Section 36.07 of the Texas Penal Code regarding the acceptance of an honorarium.

Section 36.07 does allow an employee to accept the payment to offset any reasonably related travel expenses associated with business-related travel; however, in this case the event is being held virtually so there are no expected travel costs. Instead, the honorarium is directly related to the volunteer services provided as a panelist. As such, the employee cannot accept payment or an "honorarium" for their services.